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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/672,299

09/26/2003

Stephen Paul Lewontin

NSN.018.A1

4460

76385 7590 12/23/2008

Hollingsworth & Funk, LLC
8009 34th Avenue South
Suite 125
Minneapolis, MN 54425

EXAMINER

STRANGE, AARON N

ART UNIT

PAPER NUMBER

2453

MAIL DATE

DELIVERY MODE

12/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/672,299	Applicant(s) LEWONTIN, STEPHEN PAUL	
	Examiner AARON STRANGE	Art Unit 2453	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20071014</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner would like to note that the present application has been reassigned to a new Examiner.

Response to Arguments

2. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 7-11 and 21-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5. Claim 7 is directed to a "system" comprising a plurality of "means for" performing various functions. The specification of the present application states that the invention may be implemented by "software, firmware, hardware or any combination thereof" (¶70). Since the claimed system contains no limitations directed to hardware, and the broadest reasonable interpretation of the claimed means includes software per se, the claim is not limited to statutory subject matter, and is non-statutory.

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6. Claim 21 is directed to an "apparatus" comprising a plurality of "means for" performing various functions. The specification of the present application states that the invention may be implemented by "software, firmware, hardware or any combination thereof" (§70). Since the claimed apparatus contains no limitations directed to hardware, and the broadest reasonable interpretation of the claimed means includes software per se, the claim is not limited to statutory subject matter, and is non-statutory.

7. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3-7, 9-12, 14-16, 18-21 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saulpaugh et al. (US 7,243,356) in view of Wireless Application Protocol ("Push OTA Protocol) (hereinafter W@P).

10. With regard to claim 1, Saulpaugh discloses a method comprising:

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receiving a Web service message (method invocation) at a first network entity (client application causes a method invocation)(col. 29, ll. 38-41), the Web service message targeted for a second network entity (message is targeted for the service entity)(col. 29, ll. 38-41), wherein the second network entity comprises a mobile server (services may run in mobile devices such as mobile phones and notebook computers)(col. 15, ll. 30-36) that accepts incoming connection requests to invoke a remote procedure call (services may be operated by remote procedure calls received via message gates)(col. 15, ll. 55-57; col. 29, ll. 42-44);

establishing a session with the second network entity (messages are exchanged via a secure bi-directional communication channel)(col. 21, ll. 36-37);

sending the Web service message to the second network entity to invoke the remote procedure call via the mobile server based on processing the Web service message at the second network entity (message is sent to the service to invoke a service method remotely)(col. 29, ll. 42-44).

Saulpaugh fails to specifically disclose that the web service message is sent via a Wireless Application Protocol (WAP) Connection-Oriented (CO) Over-The-Air (OTA) push session to which a transport protocol is bound, although Saulpaugh discloses that the messages may be sent using "any suitable message transport" (col. 18, ll. 49-52).

W@P teaches a method of transmitting messages via a Wireless Application Protocol (WAP) Connection-Oriented (CO) Over-The-Air (OTA) push session, to which a transport protocol (HTTP) is bound (pp. 19-35). W@P discloses that this delivery mechanism allows messages to be delivered to a terminal in an asynchronous manner

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(p. 9). One of ordinary skill in the art would have recognized that delivery of messages via a Wireless Application Protocol (WAP) Connection-Oriented (CO) Over-The-Air (OTA) push session would have been a predictable variation of the numerous delivery methods that were known in the art at the time the invention was made.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a Wireless Application Protocol (WAP) Connection-Oriented (CO) Over-The-Air (OTA) push session to deliver messages to the service entities since it would have been a suitable message transport that permitted asynchronous delivery of messages to the services to invoke service methods.

11. With regard to claim 3, W@P further discloses that the transport protocol includes Hypertext Transport Protocol (HTTP) (p. 19).

12. With regard to claim 4, W@P further discloses that the transport protocol includes Wireless Session Protocol (WSP) (p. 11).

13. With regard to claim 5, Saulpaugh further discloses that processing the Web service message at the second network entity comprises forming a Web service response message targeted for the first network entity (col. 15, ll. 58-59).

14. With regard to claim 6, the combined system of Saulpaugh and W@P discloses sending the Web service response message targeted for the first entity via the WAP CO

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OTA push session using the transport protocol (response message is sent to the client; in the combined system the message would be returned via the WAP CO OTA push session)(col. 15, ll. 58-59).

15. Claims 7, 9-12, 14-16, 18-21 and 23-25 are rejected under the same rationale as claims 1 and 3-6, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

16. Claims 2, 8, 13, 17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saulpaugh et al. (US 7,243,356) in view of Wireless Application Protocol ("Push OTA Protocol) (hereinafter W@P) further in view of W3C Recommendation ("SOAP Version 1.2 Part 1)(hereinafter W3C).

17. With regard to claim 2, while the system disclosed by Saulpaugh and W@P shows substantial features of the claimed invention (discussed above), it fails to specifically disclose that the Web service message includes a Simple Object Access Protocol (SOAP) message.

W3C teaches using SOAP messages to represent RPC requests and responses in a uniform manner (p. 13). This would have been an advantageous addition to the system disclosed by Saulpaugh and W@P since it would have allowed messages for

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invoking remote methods to be exchanged using a uniform, standard protocol which would provide greater interoperability with other systems.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use SOAP messages to transmit the Web services messages in a uniform and standard manner.

18. Claims 8, 13, 17 and 22 are rejected under the same rationale as claim 2, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON STRANGE whose telephone number is (571)272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron Strange/
Examiner, Art Unit 2453